IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 6866 of 1997

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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DY EXECUTIVE ENGINEER (IRRIGATION) - Petitioner(s)

Versus

JD PANDYA C/0 B.D.PANDYA, & 1 - Respondent(s)

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Appearance :

MR PV HATHI for Petitioner No(s).: 1.

MR PH PATHAK for Respondent No(s).: 1.
RULE NOT RECD BACK for Respondent No(s).: 2.

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CORAM : HON'BLE MR JUSTICE KS JHAVERI

Date : 19/07/2005

ORAL JUDGMENT

1.0 The petitioner has challenged the order dated 26.03.1997 passed by the Labour Court, Jamanagar in

Reference LCJ No.510 of 1990, whereby the said reference was allowed.

2.0 The respondent workman, through respondent no.2 – Union, approached the Assistant Labour Commissioner seeking reference u/s.10 of the Act alleging inter alia that his services as Watchman was illegally terminated on 30.06.1983 by the petitioner. Ultimately, the dispute culminated into a reference. The said reference was numbered as Reference LCJ No.510 of 1990 on its transfer from the Labour Court, Rajkot to the Labour Court, Jamnagar. The Labour Court, Jamnagar, after hearing the parties, allowed the said reference. Hence, this petition.

3.0 Mr. PV Hathi learned advocate for the petitioner has submitted that pursuant to the order of the Labour Court, the respondent has been reinstated in service on 01.07.1997, and therefore, the question which is now required to be considered by this Court is with regard to determining the date of joining of service of the respondent. Mr. Hathi has contended that the Govt. Resolution dt. 17.10.1988 is applicable to only those workmen who were in service as on 01.10.1988 and that too

on completion of certain number of years of service.

4.0 Mr. PH Pathak learned advocate for the respondent has submitted that the respondent workman had left the service of the petitioner in July 1980, and therefore, the Labour Court was justified in passing the impugned award.

5.0 I have heard learned counsel for the parties and perused the documents placed on record. The Labour Court, while passing the impugned award, has considered the service which the respondent had rendered with the petitioner Panchayat. I am in complete agreement with the findings recorded by the Labour Court. Therefore, the contention raised by the petitioner regarding determining the date of the respondent joining the services of the petitioner shall be deemed to be the date on which he was given the benefits of continuous service.

6.0 In above view of the matter, the following order is passed. The order granting permanency to the respondent workman is quashed and set aside. The petitioner Panchayat is directed to reinstate the respondent workman in service with effect from the date on which he had

joined the services of the petitioner Panchayat. The respondent shall be granted all benefits as per the Government Resolution dated 17.10.1988 and shall also be entitled for the benefits of continuity of service. However, if the respondent workman has joined the petitioner prior to July 1980, it shall be open to him to satisfy the said fact to the petitioner Panchayat. It is clarified that the date of effect of continuous service shall be given from the date of his joining the services with the petitioner. The petition stands disposed of accordingly. Rule is made absolute to the aforesaid extent with no order as to costs.

(K. S. JHAVERI, J.)

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